

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

In re:

KING SERVICE, INC., d/b/a King Fuels,

Debtor.

KING SERVICE, INC., d/b/a King Fuels,

Plaintiff,

-v-

5:05-CV-900

NIAGARA MOHAWK POWER CORPORATION,

Defendant.

APPEARANCES:

FRIEDMAN, HIRSCHEN, MILLER &
CAMPITO, P.C.

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NIAGARA MOHAWK POWER CORPORATION
Defendant
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DAVID N. HURD
United States District Judge

OF COUNSEL:

JEFFREY N. MILLER, ESQ.

JOHN T. PARKINSON, ESQ.
Managing Counsel

MICHAEL J. SMITH, ESQ.

MEMORANDUM-DECISION and ORDER

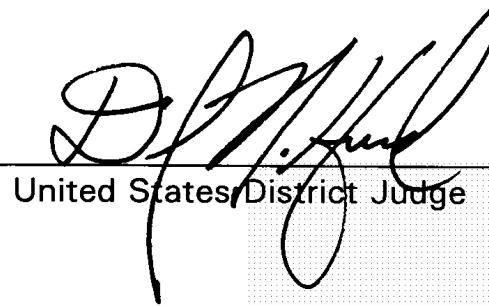
Niagara Mohawk moves to withdraw the reference to the Bankruptcy Court. King Service, Inc. opposes. The motion was taken on submission without oral argument.

Niagara Mohawk's motion is grounded in the theory that, given the CERCLA action pending in the district court, good cause exists to hear the CERCLA matter and the adversary proceeding, which is based upon environmental contamination and remediation at the same site as the CERCLA action, in the same forum. In a Memorandum-Decision and Order in the CERCLA action, No. 98-CV-1039, filed this date, dismissing that case in its entirety, there remain no grounds for withdrawing the reference.

Accordingly, it is

ORDERED that Niagara Mohawk Power Corporation's motion to withdraw the reference is DENIED.

IT IS SO ORDERED.



United States District Judge

Dated: June 28, 2006
Utica, New York.